



OFFICES OF THE COUNTY EXECUTIVE

Isiah Leggett
County Executive

Timothy L. Firestine
Chief Administrative Officer

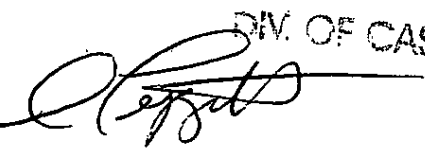
MEMORANDUM

July 24, 2007

RECEIVED

JUL 26 2007

To: Marilyn J. Praisner, President
Montgomery County Council

From: Isiah Leggett, County Executive 

Re: Montgomery County Green Building Regulation

DIV. OF CASE WORK MGA

Attached for the Council's consideration is Executive Regulation 19-07, Buildings-Energy Efficiency and Environmental Design. This regulation is required under Bill 17-06, the Montgomery County Green Building Law. It incorporates broad policies and procedures for implementing the legislation. Departmental guidelines will be developed to provide more detailed instructions.

The proposed regulation was advertised in the June 2006 issue of the Montgomery County Register. A public hearing was held on June 21, 2007. The Hearing Officer's report is attached. The Department of Permitting Services received numerous comments regarding the proposed regulation. Comments related to the clarity of the process and required submissions were largely incorporated into the proposed regulation. Comments received suggesting that DPS list acceptable alternative rating systems were not incorporated. Comments received requesting elimination of multi-family housing from the requirements of the regulation were also not incorporated.

If you have any questions or need additional information you may contact Sandra Batterden at 777-6248.

Attachments



OFFICE OF MANAGEMENT AND BUDGET
M E M O R A N D U M

Isiah Leggett
County Executive

Joseph F. Beach
Director

June 29, 2007

TO: Joseph F. Beach, Director
Office of Management and Budget

VIA: Brady Goldsmith, Management and Budget Specialist *ting*

FROM: Mary C. Beck, Management and Budget Manager *mcb*

SUBJECT: Executive Regulation 19-07, Buildings - Energy Efficiency
and Environmental Design

REGULATION SUMMARY

This regulation establishes a process for enforcement of Montgomery County Bill 17-06 Buildings – Energy Efficient and Environmental Design. This regulation addresses requirements for plan submission, review and inspection of Green Building requirements.

The Department of Permitting Services was established as a fee-supported enterprise within the Executive Branch of Montgomery County in 1996. Revenues that support the Department are established by Method 2 or Method 3 Executive Regulations and by County Council resolution. A subsequent regulation change will later adjust fees to cover the costs of implementing the Energy Efficient and Environment Design bill.

FISCAL SUMMARY

The primary fiscal impact of these regulatory changes will be to increase ongoing annual costs by \$346,040. The regulation will be implemented on September 1, 2008. Therefore, in FY09, partial year costs will be \$419,490, with \$137,000 of these costs one-time expenses for hybrid vehicles, phones, computers, and work stations. Ongoing costs include four full-time Senior Permitting Services Specialist positions and their related operating expenses such as rent, phone and computer service, and vehicle maintenance.

Hadi Mansouri, Sandra Batterden, Reggie Jetter and Maggie Orsini from the Department of Permitting Services contributed to and concurred with this analysis.

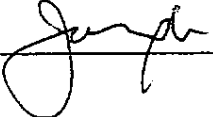

JFB: mcb

Office of the Director

101 Monroe Street, 14th Floor • Rockville, Maryland 20850 • 240-777-2800
www.montgomerycountymd.gov

cc: Carla Joyner, DPS
Maggie Orsini, DPS
Hadi Mansouri, DPS
Mary Beck, OMB
Brady Goldsmith, OMB
Catherine Patterson, OMB

OMB REVIEW

✓ Fiscal Impact Statement approved  
OMB Director

 Fiscal Impact Statement not approved, OMB will contact department to remedy.



MONTGOMERY COUNTY COPY EXECUTIVE REGULATION

Offices of the County Executive • 101 Monroe Street • Rockville, Maryland 20850

Subject: Buildings – Energy Efficiency and Environmental Design	Number: 19-07
Originating Department Permitting Services	Effective Date:

Montgomery County Regulation on:

BUILDINGS – ENERGY EFFICIENCY AND ENVIRONMENTAL DESIGN

DEPARTMENT OF PERMITTING SERVICES

Issued by: County Executive
Regulation No. 19-07

Authority: Montgomery County Code Sections 8-26, 8-49

Supersedes: n/a

Council Review: Method 2

Register: Vol. 24, Issue 6

Comment deadline: June 30, 2007

Effective date:

Sunset date: None

SUMMARY: This regulation implements the Montgomery County Green Building Law set out in Chapter 8 (Buildings), Article VII Energy Efficiency and Environmental Design of the County Code.

ADDRESSES: Department of Permitting Services
255 Rockville Pike, Second Floor
Rockville, Maryland 20850

STAFF CONTACT: Sandra Batterden, Manager
Division of Casework Management
240-777-6248

Hadi Mansouri, Acting Chief
Division of Building Construction
240-777-6233

BACKGROUND INFORMATION: The Department of Permitting Services enforces Chapter 8 (Buildings) of the Montgomery County Code. This regulation implements the Montgomery County Green Building Law, which is codified in Article VII, (Energy Efficiency and Environmental Design) of Chapter 8.



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Subject:
Buildings – Energy Efficiency and Environmental Design

Number:
19-07

Originating Department
Permitting Services

Effective Date:

I: PURPOSE

This regulation implements the Montgomery County Green Building Law by specifying the:

- a) LEED Rating System and any equivalent energy and environmental design standard that applies to each type of covered building under Chapter 8-49 of the County Code;
- b) process to verify that a covered building complies with the applicable standard, including types of persons who are qualified to verify compliance;
- c) standards and procedures under which the Director may approve waivers or modifications of Chapter 8-49 of the County Code when compliance would be impracticable or unduly burdensome and the public interest would be served by the waiver or modification; and
- d) standards and procedures for any enforcement mechanism that the Department finds necessary to accomplish the purposes of the Montgomery County Green Building Law.

II: APPLICABILITY

This regulation applies to any **newly constructed or extensively modified non-residential or multi-family residential building** that has or will have at least 10,000 square feet of gross floor area.

III: DEFINITIONS

For the purposes of this regulation, the following words and phrases have the meaning indicated. Words and phrases defined and used in Chapter 8 of the Montgomery County Code have the meaning indicated in that Chapter.

County building means any covered building for which the County government finances at least 30% of the cost of:

- (1) construction, for a **newly constructed** building; or
- (2) modification, for a building that is **extensively modified**.



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Covered building means a **newly constructed** or **extensively modified non-residential or multi-family residential building** that has or will have at least 10,000 square feet of gross floor area.

Department means the Department of Permitting Services.

Director means the Director of the Department of Permitting Services.

Extensively modified refers to any structural modification which alters more than 50% of the building's gross floor area, as indicated on the application for a building permit. ***Extensively modified*** does not include any modification that is limited to one or more of the following building systems: mechanical; electrical; plumbing; heating, ventilation, and air conditioning (HVAC); and fire protection.

LEED refers to the series of Leadership in Energy and Environmental Design (LEED) rating systems developed by the USGBC (US Green Building Council).

LEED rating system means the particular **LEED** rating system that applies to a **covered building**.

Multi-family residential building means any multi-family residential or mixed-use building that is taller than 4 stories. ***Multi-family residential building*** does not include a residential care or assisted living building which can house no more than 16 occupants.

Newly constructed refers to a new stand-alone building or an addition to an existing building.

(1) Except as provided in paragraph (2), a ***newly constructed*** building includes any addition to or enlargement of an existing building, but does not include any change to



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an existing portion of a building.

- (2) For any building for which an application for all necessary building permits was filed before September 1, 2008, any later addition to that building constitutes a **newly constructed** building only if the addition would increase the building's land coverage by at least 100% or gross square floor area by at least 10,000 square feet.

Non-residential building means a building not used as a dwelling.

Non-residential building does not include any:

- (1) day care center for 5 or fewer persons;
- (2) accessory building or structure;
- (3) agricultural building, stable, barn, or greenhouse;
- (4) parking garage that is not heated or cooled; or
- (5) other building characterized as a miscellaneous building in the edition of the ICC International Building Code designated under Section 8-13.

Temporary Use and Occupancy Upon the request of the holder of a permit, the director may issue a temporary certificate of occupancy for a building or structure or part thereof before the entire work covered by the permit shall have been completed; provided, that such portion or portions may be occupied safely prior to full completion of the building without endangering life or public welfare.

USGBC means the US Green Building Council, an organization that has developed and published the **LEED rating system** to measure the energy efficiency and environmental performance of a building.



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IV: POLICY

The Department of Permitting Services supports the General Services Administration (GSA) commissioned evaluation of nationally recognized green building rating systems titled *Sustainable Building Rating Systems Summary* dated July 2006. The report, researched by the Pacific Northwest National Laboratory, identified the USGBC LEED as the “most appropriate and credible” rating system for green building design and construction standards. The Department hereby identifies the LEED rating systems as the benchmark for evaluating proposed equivalent rating systems on a project by project basis.

The Department will accept permit applications for covered buildings under four optional methods of certification. The first and preferred method to demonstrate compliance with LEED certification is via submission to the USGBC. Projects formally registered, submitted for review, and certified by the USGBC will be accepted as certified by the Department. The Department reserves the right to review and inspect (as it seems necessary) certified credits approved by the USGBC.

Projects not submitted to the USGBC for formal review will undergo a complete review and inspection process via DPS, using the LEED rating system to document planning, design, and construction phase compliance. In all instances below where LEED submission is stipulated, the alternative DPS review is considered equal. Submission of credit documentation under the Green Building Law for projects using the LEED rating system must be certified by a registered design professional.

Consideration of projects using any alternative green building rating system will be made via the code modification process provided under Section 8-15 of the County Code. Submission of sufficient information regarding the proposed alternative rating system is required to determine the equivalency to LEED. Submission of credit documentation under the Green Building Law for projects using an approved alternative to the LEED rating system must be certified by a registered design professional.

Projects that are in compliance with future adopted national green building codes or standards will supercede the requirements of this regulation.



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V: PROCEDURES

5.0 When an applicant submits to the Montgomery County Planning Department an application for the first required regulatory approval relating to a project that includes a covered building, the applicant must submit to the Department, a Green Building Concept plan indicating the project scope and anticipated green building features in the following areas:

- a) Sustainable Sites
- b) Water Efficiency
- c) Energy and Atmosphere
- d) Materials and Resources
- e) Indoor Environmental Quality
- f) Innovation and Design Process

5.1 When an applicant submits to the Department an application for a building permit for a covered building, the applicant must also submit to the Department documentation of LEED or approved equivalent rating system project registration and credit information.

The documentation of LEED or approved equivalent rating system project registration and credit submission must identify the:

- a) LEED or approved equivalent rating system type under which the project is registered
- b) Identification of the Registered Design Professional as the point of contact for project information
- c) Design phase credit submission documentation and any anticipated or approved credits designated by the USGBC or approved equivalent rating organization.
- d) Construction phase credit submission documentation and any anticipated or approved credits designated by the USGBC or approved equivalent rating organization.

5.2 Prior to construction start under the building permit for a **covered building**, a mandatory green building meeting is required.

- a) Attendees must demonstrate that a process is in place to adequately implement and document construction phase credits.
- b) Attendees must include representatives of the project applicant, the project design professional and the LEED Accredited Professional responsible for project credit documentation.



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5.3 Before construction begins on a covered building for which a building permit has been issued, the applicant, the project's registered design professional must attend a Green Building Construction Meeting with the Department and demonstrate that a process is in place to adequately implement and document construction phase credits.

5.4 The Department may conduct inspections of any covered building at any time as necessary to document construction phase credits.

5.5 Before a Use and Occupancy Certificate for a covered building is issued to an applicant:

- (a) the applicant and the project's registered design professional must attend a Green Building Credit Verification meeting with the Department and demonstrate that the required number of design and construction phase credits have been obtained; and
- (b) the Department must inspect the covered building and verify that the design and construction phase credits have been obtained.

If a covered building has not obtained the applicable LEED or approved equivalent rating system certification, the Director must not issue a Use and Occupancy Certificate. The Director may issue a temporary Use and Occupancy Certificate if the applicant demonstrates that a process is in place to adequately implement and document anticipated construction or post-construction phase credits. A temporary Use and Occupancy Certificate can be revoked if the building does not comply with the Montgomery County Green Buildings Law or this regulation.

VI: MODIFICATIONS

VI. Requests for Modification to the requirements of the Montgomery County Green Building Law or this regulation will be addressed via the Department's Code Modification process administered under Section 8-15 of the County Code. In addition to modifications for proposed use of alternative energy and environmental efficiency rating systems, modifications may include requests for waivers when compliance is impracticable or unduly burdensome and the public interest would be served by a waiver or modification.



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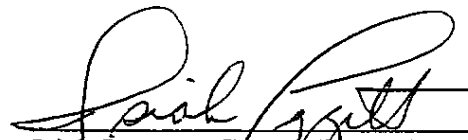
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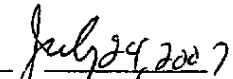
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VII. SEVERABILITY

The provisions of this regulation are severable. If a court of competent jurisdiction holds that a provision is invalid or inapplicable, the remainder of the regulation remains in effect.

EFFECTIVE DATE: This regulation becomes effective _____.


Isiah Leggett, County Executive


Date July 24, 2007

Approved as to form and legality
Montgomery County, Md. County Attorney's Office

